



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OGC-2017-0030; FRL-9958-55-OGC]

Proposed Settlement Agreement, Clean Air Act Petition for Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (“CAA”), notice is hereby given of a proposed settlement agreement to address a lawsuit filed by Sierra Club in the United States Court of Appeals for the District of Columbia Circuit: Sierra Club v. EPA, No. 16-1158 (D.C Cir.). On May 27, 2016, Sierra Club filed a petition for judicial review of the final action taken by EPA under the CAA titled “Revisions to Ambient Monitoring Quality Assurance and Other Requirements” (“final action”) at 81 Fed. Reg. 17,248 (Mar. 28, 2016). The proposed settlement agreement would resolve Sierra Club’s lawsuit upon EPA’s issuance of two nonbinding guidance documents recommending public notification practices concerning the submission and approval of ambient air monitoring network plans.

DATES: Written comments on the proposed settlement agreement must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID number EPA-HQ-OGC-2017-0030, online at www.regulations.gov. For comments submitted at www.regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (“CBI”) or other information whose disclosure is restricted by statute. Multimedia

submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Jonathan Skinner-Thompson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone: (202) 564-0291; fax number (202) 564-5603; email address: skinner-thompson.jonathan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Additional information about the proposed settlement agreement.

Sierra Club filed a petition for review of EPA’s final action titled “Revisions to Ambient Monitoring Quality Assurance and Other Requirements” (“final action”) at 81 Fed. Reg. 17,248 (Mar. 28, 2016). In the final action, EPA revised requirements pertaining to public inspection of proposed annual monitoring network plans under 40 C.F.R. 58.10.

Under the terms of the proposed settlement agreement, Sierra Club would agree to dismiss its case with prejudice upon EPA’s issuance of two nonbinding guidance documents. The first guidance document would be issued to state and local monitoring agencies and would make public inspection recommendations concerning proposed monitoring plans. The second guidance document would be issued to EPA regional offices and would make recommendations

for stakeholder notification of submitted monitoring plan approvals and disapprovals. The United States also would agree to make a payment in settlement of Sierra Club's claim for fees and costs. Please review the settlement agreement for additional details, available in the public docket at EPA-HQ-OGC-2017-0030.

For a period of 30 days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to the agreement should be withdrawn or withheld, the terms of the agreement will be affirmed.

II. Additional information about commenting on the proposed settlement agreement.

A. How Can I Get a Copy of the Proposed Settlement Agreement?

The official public docket for this action under Docket ID No. EPA-HQ-OGC-2017-0030 contains a copy of the proposed settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through www.regulations.gov. You may use the www.regulations.gov to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select “search”.

It is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at www.regulations.gov without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA’s policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA’s electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and To Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked “late.” EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment

and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the www.regulations.gov website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through www.regulations.gov, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: January 11, 2017.

Lorie J. Schmidt,
Associate General Counsel.

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